

Standard USG-3: The student will demonstrate an understanding of the continuing role of the United States Constitution in the defining and shaping of American government and society.

USG-3.3 Summarize the function of law in the American constitutional system, including the significance of the concept of the due process of law and the ways in which laws are intended to achieve fairness, the protection of individual rights, and the promotion of the common good. (P)

Taxonomy Level: 2.4-B Understand Conceptual Knowledge

Previous/future knowledge:

There will have been little previous knowledge of this indicator. Previous understanding of this indicator would have been in the context of focusing on the civil rights movement and the due process amendments of the Constitution. Students will have been introduced to some relevant court cases such as *Marbury v. Madison*, *Dred Scott*, and *Brown v. Board*, but the depth of understanding would be limited.

(5-1.2; 5-5.3; 7-2.3; USHC 4.4; USHC 9.5)

It is essential for students to apply their understanding of rule of law and its role in the American system. There needs to be a realization that it's not enough to have written law but there must be a legitimacy of law for it to be effective. Due process is a critical component in this legitimacy since it protects individual and societal liberties, preventing their arbitrary and unlawful loss. Students need to understand the need for substantive and procedural due process if the law is to function properly. Additionally students need to be aware of the evolution of due process through the 14th Amendment and the incorporation doctrine.

It is not essential for students to know the specific court cases that incorporated individual rights.

Assessment guidelines: The objective of this indicator is to summarize the function of law; therefore, the primary focus of assessment should be to generalize major points describing the operation of constitutional law in the United States. Assessment should require students to explain due process and the incorporation doctrine, relating these to the 5th and 14th amendments specifically. Assessment would involve distinguishing substantive and procedural due process and critiquing the application of these concepts in the American system. It would be appropriate to apply the principles of fairness, individual rights, and common good in analyzing the function of law.